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10/737,409	12/16/2003	Brad Joseph	FMC 1529 PUS / 201-1421	7622
28395 7590 09/17/2008 BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			EXAMINER RAPILLO, KRISTINE K	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/737,409

Applicant(s)

JOSEPH ET AL.

Examiner

KRISTINE K. RAPILLO

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-23, and 25-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/16/2003; 3/11/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment submitted June 30, 2008. Claims 1, 2, 21, 22, and 41 are amended. Claims 4 and 24 are cancelled. Claims 1 – 3, 5 – 23, and 25 – 41 are presented for examination.

Drawings

2. The objections to the drawings are hereby withdrawn based upon the amendment submitted June 30, 2008.

Claim Objections

3. The objection to claim 41 is hereby withdrawn based on the amendment submitted June 30, 2008.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the

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examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1 – 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over CompWatch® (@www.bsiweb.com, Benefit Software, 2002) in view of Jensen (U.S. Patent No. 6,065,000).

In regard to claim 1 (Currently Amended), CompWatch® teaches a system for automated health and safety information management, the system comprising one or more computers operably programmed and configured to:

- receive a plurality of data concerning patient medical visits resulting from occupational health or safety incidents (paragraph 93)
- process the data to automatically identify one or more patient medical visits that are OSHA-recordable (Figure 3 and paragraphs 2, 100). As per the specification, OSHA recordable visits are any type of medical visit included in an official OSHA log.

CompWatch® fails to teach a system configured to output a report including a summary of the data characterizing one or more patient medical visits that are OSHA-recordable and Automatically display an indication as to whether enough data characterizing the patient medical visits has been provided to determine whether the visit is OSHA-recordable (column 1, lines 19 – 23).

Jensen teaches a system configured to output a report including a summary of the data characterizing one or more patient medical visits that are OSHA-recordable (Figure 10) and Automatically display an indication as to whether enough data characterizing the patient medical visits has been provided to determine whether the visit is OSHA-recordable

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system configured to output a report including a summary of the data characterizing one or more patient medical visits that are OSHA-recordable as taught by Jensen, into the system of CompWatch®, with the motivation of automating the process of documenting OSHA-recordable health and safety information (Figure 2).

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In regard to claim 2 (Currently Amended), CompWatch® teaches the system of claim 1 wherein the data is processed based on pre-defined logic (paragraphs 24 – 26).

In regard to claim 3 (Original), CompWatch® teaches the system of claim 1 wherein the plurality of data characterizing the patient medical visit includes data representing the date of the incident, whether the patient died or lost consciousness, diagnosis, treatment, medications, test orders, referrals, medical leaves, medical restrictions, or an indication as to whether the patient is fit for work (Figures 3 and 4, and paragraphs 102 -103).

In regard to claim 4, CompWatch® teaches the system of claim 1 wherein the one or more computers are additionally programmed and configured to automatically display an indication as to whether enough data characterizing the patient medical visits has been provided to determine whether the visit is OSHA- recordable (Figure 3, and paragraph 100).

In regard to claim 5 (Original), CompWatch® teaches the system of claim 1 wherein the data processed includes data characterizing one or more prior medical visits for a particular patient (Figure 5 and paragraph 101).

In regard to claim 6 (Original), CompWatch® teaches the system of claim 1 wherein the occupational health or safety incidents include injuries (Figure 2).

CompWatch® fails to teach a system where the occupational health or safety incidents include illnesses.

Jensen teaches a system where the occupational health or safety incidents include illnesses (Figure 38).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system where the occupational health or safety incidents include illnesses as taught by Jensen, into the system of CompWatch®, with the motivation of providing a means

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for automating the tracking and historical data of a company's OSHA-recordable incidents (column 1, lines 19 - 30).

In regard to claim 7 (Original), CompWatch® teaches the system of claim 1 wherein the one or more computers are additionally programmed and configured to query the plurality of data concerning patient medical visits according to a plurality of user-defined criteria (Figure 8 and paragraphs 106 – 107).

In regard to claim 8 (Original), CompWatch® teaches a system for automated health and safety information management as per claim 1.

CompWatch® fails to teach a system wherein the one or more computers are additionally programmed and configured to generate a report summarizing the occupational health or safety incidents for a particular organizational location or patient.

Jensen teaches a system wherein the one or more computers are additionally programmed and configured to generate a report summarizing the occupational health or safety incidents for a particular organizational location or patient (column 13, line 62 through column 14, line 3).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the one or more computers are additionally programmed and configured to generate a report summarizing the occupational health or safety incidents for a particular organizational location or patient as taught by Jensen with the motivation of providing a summary of all captured data for the purpose of tracking and presenting the data for OSHA-recordable events in an OSHA approved format (column 1, lines 19 - 30).

In regard to claim 9 (Original), CompWatch® teaches a system for automated health and safety information management as per claim 1.

CompWatch® fails to teach a system wherein the one or more computers are additionally programmed and configured to generate a report summarizing patient medical leaves of absence for a particular organizational location or patient.

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Jensen teaches a system wherein the one or more computers are additionally programmed and configured to generate a report summarizing patient medical leaves of absence for a particular organizational location or patient (Tables 4 - 5 and column 5, lines 29 - 44).

The motivation to combine the teachings of CompWatch® and Jensen is discussed in the rejection of claim 8, and incorporated herein.

In regard to claim 10 (Original), CompWatch® teaches the system of claim 1 wherein the one or more computers are additionally programmed and configured to generate a report summarizing patient medical restrictions for a particular organizational location or patient (paragraphs 31 and 32).

In regard to claim 11 (Original), CompWatch® teaches a system for automated health and safety information management as per claim 1.

CompWatch® fails to teach a system wherein the one or more computers are additionally programmed and configured to generate a report summarizing patient medical visits for a particular organizational location or patient.

Jensen teaches a system wherein the one or more computers are additionally programmed and configured to generate a report summarizing patient medical visits for a particular organizational location or patient (Table 4). Table 4 lists the fields available for import and export of data for the accident form (Figure 30), including hospitalization, physician, and injuries.

The motivation to combine the teachings of CompWatch® and Jensen is discussed in the rejection of claim 8, and incorporated herein.

In regard to claim 12 (Original), CompWatch® teaches a system for automated health and safety information management as per claim 1.

CompWatch® fails to teach a system wherein the one or more computers are additionally programmed and configured to electronically dispatch an investigator to investigate one or more of the occupational health or safety incidents.

Jensen teaches a system wherein the one or more computers are additionally programmed and configured to electronically dispatch an investigator to investigate one or more of the occupational health or safety incidents (Figure 8 and Table 6). Table 6 lists the fields available for import/export purposes to the SOS form (Figure 8). The Examiner has interpreted "electronically dispatch" as an investigator is electronically notified of a pending investigation.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the one or more computers are additionally programmed and configured to electronically dispatch an investigator to investigate one or more of the occupational health or safety incidents as taught by Jensen with the motivation of providing a tool to alert investigators of any occupational health and safety incidents in a timely manner (column 5, lines 13 -16).

In regard to claim 13 (Original), CompWatch® teaches a system for automated health and safety information management as per claim 1.

CompWatch® fails to teach a system wherein the one or more computers are additionally programmed and configured to receive a plurality of data concerning an investigation of one or more of the occupational health or safety incidents.

Jensen teaches a system wherein the one or more computers are additionally programmed and configured to receive a plurality of data concerning an investigation of one or more of the occupational health or safety incidents (Table 6 and Figure 8).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the one or more computers are additionally programmed and configured to receive a plurality of data concerning an investigation of one or more of the occupational health or safety incidents as taught by Jensen with the motivation of providing an investigator with a tool to collect OSHA recordable data from a variety of databases (Figure 2).

In regard to claim 14 (Original), CompWatch® teaches the system of claim 13.

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CompWatch® fails to teach a system wherein the one or more computers are additionally programmed and configured to query the plurality of data concerning an investigation of one or more of the occupational health or safety incidents.

Jensen teaches a system wherein the one or more computers are additionally programmed and configured to query the plurality of data concerning an investigation of one or more of the occupational health or safety incidents (Table 6 and Figure 8).

The motivation to combine the teachings of CompWatch® and Jensen is discussed in the rejection of claim 13, and incorporated herein.

In regard to claim 15 (Original), CompWatch® teaches the system of claim 13.

CompWatch® fails to teach a system wherein the one or more computers are additionally programmed and configured to generate a report summarizing one or more incident investigations.

Jensen teaches a system wherein the one or more computers are additionally programmed and configured to generate a report summarizing one or more incident investigations (Table 6 and Figure 69). Figure 69 illustrates a date range and specific criteria selection to generate a graphical report to summarize the data selected.

The motivation to combine the teachings of CompWatch® and Jensen is discussed in the rejection of claim 8, and incorporated herein.

In regard to claim 16 (Original), CompWatch® teaches the system of claim 13.

CompWatch® fails to teach a system wherein the plurality of data concerning the investigation includes one or more corrective actions to avoid reoccurrence of the one or more of occupational health or safety incidents.

Jensen teaches a system wherein the plurality of data concerning the investigation includes one or more corrective actions to avoid reoccurrence of the one or more of occupational health or safety incidents (Figure 44).

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the plurality of data concerning the investigation includes one or more corrective actions to avoid reoccurrence of the one or more of occupational health or safety incidents as taught by Jensen with the motivation of providing a tool to track OSHA recordable incidents and their respective corrective actions; this enables the generation of combined data to be used a training tool for employees to ensure the incident(s) are not repeated (column 5, lines 10 – 13).

In regard to claim 17 (Original), CompWatch® teaches the system of claim 16 wherein the one or more computers are additionally programmed and configured to generate a report summarizing corrective actions (paragraph 49 and Figure 44).

In regard to claim 18 (Original), CompWatch® teaches the system of claim 1 wherein the one or more computers are additionally programmed and configured to: filter received data at one or more filter levels based on one or more user-defined criteria (paragraph 40); and generate a report based on the filtered data (paragraphs 44 – 45).

In regard to claim 19 (Original), CompWatch® teaches the system of claim 18 wherein the filter levels include worker characteristics, injury/illness codes, work assignment or time period (paragraph 40).

In regard to claim 20 (Original), CompWatch® teaches the system of claim 18 wherein the report includes a bar chart or a time trend (paragraphs 44 - 46).

Method claims 21 – 40 repeat the subject matter of system claims 1 – 20 as a series of steps rather than a set of apparatus elements. As the underlying elements of claims 1 – 20 have been shown to be fully disclosed by the teachings of CompWatch® and Jensen in the above rejection of claims 1 – 20, it is readily apparent that the system disclosed by CompWatch® and Jensen performs these steps. As

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such, these limitations (claims 21 – 40) are rejected for the same reasons given above for system claims 1 – 20 and incorporated herein.

7. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over CompWatch® @(www.bsiweb.com, Benefit Software, 2002) in view of Jensen (U.S. Publication Number 2007/0061357) which is a continuation of Jensen, U.S. Patent No. 6,065,000.

In regard to claim 41 (Currently Amended), CompWatch® teaches computer software embodied in a computer-readable medium for automated health and safety information management, the computer software comprising:

an electronic medical record module configured to:

(i) receive a plurality of data concerning patient medical visits resulting from occupational health or safety incidents (paragraph 93);

(ii) process the data based on pre-defined OSHA logic to automatically identify one or more patient medical visits that are recordable (Figure 3 and paragraphs 2, 100); and

a data analysis module configured to:

(i) filter received data at one or more filter levels based on one or more user-defined criteria (paragraph 40); and

(ii) generate a plurality of reports based on the filtered data (paragraphs 44 – 45);

CompWatch® fails to teach an electronic medical record module configured to output a report including a summary or the data characterizing one or more patient medical visits that are OSHA-recordable; an incident investigation module configured to electronically dispatch an investigator to investigate one or more of the occupational health or safety incidents; and receive a plurality of data concerning an investigation of one or more of the occupational health or safety incidents including one or more corrective actions to avoid recurrence of the one or more of occupational health or safety incidents.

Jensen teaches an electronic medical record module configured to output a report including a summary or the data characterizing one or more patient medical visits that are OSHA-recordable (Figure 10); an incident investigation module configured to electronically dispatch an investigator to investigate one or more of the occupational health or safety incidents (Figures 31 and 40 - 42; paragraphs [0219] through [0231]); and receive a plurality of data concerning an investigation of one or more of the occupational health or safety incidents including one or more corrective actions to avoid reoccurrence of the one or more of occupational health or safety incidents (Figure 44).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system configured to output a report including a summary of the data characterizing one or more patient medical visits that are OSHA-recordable, an incident investigation module configured to electronically dispatch an investigator to investigate one or more of the occupational health or safety incidents and receive a plurality of data concerning an investigation of one or more of the occupational health or safety incidents including one or more corrective actions to avoid reoccurrence of the one or more of occupational health or safety incidents as taught by Jensen, into the system of CompWatch®, with the motivation of automating the process of documenting OSHA-recordable health and safety information (Figure 2).

Response to Arguments

8. Applicant's arguments filed June 30, 2008 have been fully considered but they are not persuasive. The Applicant's arguments will addressed herein below in the order in which they appear in the response filed June 30, 2008.

In response to claim 1, the Applicant argues the amended claim "automatically display an indication as to whether enough data characterizing the medical visit has been provided to determine whether the visit is OSHA-recordable." The Examiner respectfully disagrees. Jensen discloses a method which prompts the user for information required to complete an accident report (column 1, lines 19 - 23). The accident report, including OSHA required information, is illustrated in Figures 12 - 71.

In response to claim 41, it is respectfully submitted that the Examiner has applied the continuation (U.S. Publication Number 2007/0061357) of the Jensen reference, with regard to dispatching an investigator. Jensen discloses a system in which an investigator can monitor or investigate an accident via a computerized system.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/Robert Morgan/
Examiner, Art Unit 3626